

Meeting of 1998-5-12 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MAY 12, 1998 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Cecil E. Powell, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
Felix Cruz, City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 6:25 p.m. with Roll Call. Notice of meeting and agenda were posted on the City Hall notice board as required by State law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
Richard Williams, Ward Two
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Carol Green, Ward Seven
Randy Warren, Ward Eight

ABSENT: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETING OF APRIL 28, 1998.

Sadler pointed out a correction regarding roll calls on Page 246 on an original and substitute motion. Beller suggested the tape be checked.

MOVED by Beller, SECOND by Green, to accept the Minutes as present, except for the issue in doubt, and ask the City Clerk to recheck the tape. AYE: Smith, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Williams, SECOND by Warren, to elect Jeff Sadler as Mayor Pro Tem. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Smith. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Bob Mansell, 4626 Meadowbrook, requested assistance on his properties at 204 and 206 SW 10th Street which Council condemned at its April 28 meeting. He explained that neither he nor his attorney were present at that time, and that he had discussed the code requirements yesterday with Schumpert and Tucker. Mansell said it was his understanding the properties had to be brought to standards for electrical, plumbing, and made liveable; the properties are approximately 50 years old and are not dilapidated in his opinion but they are in need of work. He said he met with Manny Cruz last October and he stated if the buildings were boarded up and the lot cleaned, it should be acceptable and that he had performed about 75% of those duties, but since then, transient people had been in the building and the door was kicked in. Mansell requested another hearing, and in talking with Tucker, it appeared it could be worked out.

Beller asked what steps could be taken to accommodate the request, and if the action could be rescinded and rescheduled. Cruz said it could be brought back at the next meeting. Purcell said the resolution gave 15 days to get a permit to bring it to code or to get a permit to demolish. Dan Tucker, Code Administration Director, said that was the action taken, and the 15 days is up today. Tucker said Mansell would like to present his plan to Council. Beller asked to make a motion and Cruz said it is not on the agenda, although Council could give direction to the City Manager. Schumpert said the troubling point is the resolution that is currently in effect.

Williams said the 15 day period allows the owner to apply for a permit and asked if the person has to have the complete plans at that time to provide to city staff. Tucker said he did not need a set of architectural or engineer drawings or plans, but did need a sketch and a chance to discuss with the owner what the full extent of the remodel would be so that an understanding is reached as to the full extent required. Williams asked Mansell if he could bring that to city staff quickly as to how he planned to proceed with renovation, and since communications began yesterday before the 15 day period lapsed and continued today, could that be included in the time limit. Cruz suggested Tucker and Mansell get together and issue the building permit if Mansell wants to apply because today is the 15th day. Tucker said Mansell had not applied for one, and that he had no problem issuing one, other than, that is in violation of the resolution and Mansell would like to address the Council on the matter. Powell asked if Mansell came in within the 15 day window and Tucker said yes.

Powell asked if there is a written account when staff meets with a property owner as to what will be done and signed off on. Tucker said yes, the owner brings a plan and the permit is issued.

Warren asked Mansell if he wanted a building permit. Mansell said he did not think he needed one; he said he had information from some people that it had to be liveable, and one house has not been lived in for 20 years but had been rented for storage for 10 years; the other unit is a carport to a house and that he did not see a problem with it. Shanklin said the properties are in C-5. Tucker said the properties came to Council because Mansell had secured them and kept them up but they again became unsecured and a target for transients.

Powell asked if Mansell would get with Tucker and work out getting the properties back in a liveable situation, and asked Mansell if that was what he wanted to do. Mansell said yes, he thought he could do it very easily. Cruz suggested Tucker and Mansell resolve this since it is still within the 15 day period of adoption of the resolution and the two of them could resolve it.

Michaela Henley said she lived at 620 SW 61st Street. She said three families are living in a one family dwelling in the neighborhood; there are cars parked all over and it is hard to maneuver through, as well as children playing on the street which is extremely dangerous. Powell said the problem would be looked into.

UNFINISHED BUSINESS:

It was pointed out that Item 36 will be pulled at the request of the initiator and will not be considered.

1. Consider approving the Consolidated One-Year Action Plan for Federal Fiscal Year (FFY) 1998 for publication and submission to the U.S. Department of Housing and Urban Development (HUD), and upon HUD approval, authorize the Mayor and City Clerk to execute the grant agreements. Exhibits: Revised Funding Summary.

Schumpert said the exhibit shows the three options presented initially, as well as the Council consensus on the projects. Council requested a summary of amounts requested versus administrative costs, and a revised project proposal from Youth With A Purpose, and those were provided.

Frank Pondrom, Housing and Community Development Director, said the City Engineer had made cost modifications on the sewer projects. The 18th and F sewer project was added since the last meeting and this is the first time it has been shown. Youth With A Purpose proposal is not included in the list; however, Zoe Christian Center had provided a new budget showing 18 youth and less money for administration. Funding could be provided by reducing Emergency Home Repair to \$45,000; demolition being reduced to \$25,000; and reducing Contingency to \$7,135, and adding \$20,000 for Youth With A Purpose. Pondrom pointed out a contract would be required for the Youth With A Purpose program and modifications could be made at that time.

Williams asked how much was spent on demolition during the last year. Pondrom said approximately \$30,000. Pondrom said \$50,000 was added recently and all of that funding has not yet been spent so funds remain for that activity. Pondrom said contingency seems very low but there were cost savings from water line projects done last year, in excess of \$50,000, and those funds will be available for contingency during the next year.

Williams asked if carryover is shown in the funding allocation summary. Pondrom said that term is not used in the Community Development project, and some projects were started five years ago and funds are still being spent on them. Powell asked who monitors the programs. Pondrom said the Housing and Community Development Department, Accounting Division, and through the Annual Performance Report required by HUD.

Purcell said Council approved numbers on sewer projects but there are massive changes. Jerry Ihler, Public Works/Engineering Director, said there was an increase of \$65 per linear foot to \$75 per linear foot upon his recommendation because the estimate was from the SSES in 1996, and costs have increased. Ihler said in one instance, the wrong sewer line was listed in the location map and that was corrected and caused the great price decrease. Ihler said a small \$2,100 line was added because a line upstream was being done, as well as a line downstream, so it only made sense to include the small segment in between. Purcell said Item 26, Line 386, went from \$6,500 to \$28,000. Ihler said an incorrect length was included in the report; the crews have now physically

measured the distance between manholes.

Green asked if the Sheridan Road and Rogers Lane neighborhood sewers were considered priorities over all others. Ihler said the line segments are identified in SSES during the first or second year as lines to be rehabilitated, so those were selected in sequence with the seven year program identified in the Consent Order with DEQ.

Green said citizen participation sessions are held in the fall and spring, and the items suggested by the communities that participated had been rejected, such as the wading pools. She suggested a selection board or committee be formed so the citizens could have on-going participation because it does not seem to be considered by Council. Green said Lawton View has the highest number of citizens in the low and moderate income group and suggested the Mayor appoint a committee to establish a base group. She said citizen participation is required to qualify for the funding. Williams said Ward 7 is not the only ward in the community with needs that fall under the guidelines. He said the wards need to fight for all infrastructure repair funding, not only CDBG.

MOVED by Purcell, SECOND by Green, to approve the FY 1998 Consolidated One-Year Action Plan for publication and submission to HUD, and upon HUD approval, authorize the Mayor and City Clerk to execute the grant agreements, subject to the modification heard tonight, changing Emergency Home Repair to \$45,000 Item 4; Item 6 Demolition reduce to \$25,000; Contingency Account will be \$7,134, and add an item for Youth With A Purpose for \$20,000.

Schumpert asked if the motion was to include the modifications to the sewer numbers and Purcell said yes.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

Williams requested a list of the projects that had not been completed and the amount of funding remaining.

2. Consider adopting an ordinance relating to taxicabs, amending Article 24, Chapter 7, Lawton City Code, 1995, amending provisions relating to certificate of necessity, notice, insurance requirements, suspension or revocation of certificates and appeals, taxicab drivers permits, requirements for taxicab, and providing for severability. Exhibits: Summary of Changes; Ordinance No. 98-13.

Beller distributed proposed amendments to the ordinance as was discussed this morning at a meeting of the Taxicab Committee. He reviewed changes as follows: Page 11, All vehicles operating under currently issued certificates shall be repainted to the common color scheme prior to April 30, 1999. Previous language was January 1, 1999, and the date was changed to coincide with the expiration of the licenses of the taxicabs now in operation. Page 12 was changed at the suggestion of CPT Rightmer to conform to State law with regard to leaving the scene of an accident. Also on Page 12 was the expected life of a vehicle, and some were not in favor of changing, but the majority recommended it be changed to require that no vehicle in excess of twelve (12) years shall be operated as a taxicab; however, an exception is provided to grandfather those in that are now operational as long as they meet the mechanical requirements. Beller said the committee recommended approval with these changes.

Williams asked Beller if he would have any problems with his mother riding in a taxicab after the ordinance is passed and Beller said no.

Terry Jones, Peoples Cab Company, said he served on the Taxicab Committee, and one of the reasons for the committee was to make changes because some thought the cabs were not acceptable to the public. He said the committee had been meeting for six months and the new changes were brought in today, with the concern being the year of the vehicle and that was changed this morning. Jones said he did not feel that provision would make taxicabs better and that no taxicab should be more than twelve years old.

Powell said he understood the ordinance to say none would be over 12 years old. Beller said those in operation now would be grandfathered in, and the majority of the committee voted to recommend the grandfather provision for those currently licensed. Green asked how many there are in that category. Beller said they were told probably 30 to 40. Sadler said this means any cab currently licensed can go on indefinitely, and suggested the grandfather provision be allowed for three years instead of indefinitely. Beller said many drivers are working to make a living with vehicles that are in excellent mechanical condition that are 12 or 15 years old, and if they are properly maintained, they would be acceptable.

Powell asked if the ordinance addresses the upkeep and maintenance. Beller said the yearly inspection by the State of Oklahoma is required and that is accepted.

Shanklin said the reason he accepted this is the cabs will have to be painted in April 1999 and he believed those whose vehicles are on the borderline will upgrade because they will have to pay from \$600 to \$1,200 for painting. He said they would not paint a vehicle that would be going out of service in the next year or two, and it would clean itself up.

Karen Cook said she would like to speak for the taxicab drivers. She reviewed several regulations of operations involving federal military installations, as well as Oklahoma Statutes on vehicle safety and design. Cook said these are already included in the City Code and the State does not have an age requirement so the City should not either.

Allen Williams, cab driver, 406 N 3rd Street, said they have certificates making them independent or self employed members, and the panel should realize that the persons who pay for the changes are the individual drivers in the cab according to law. Drivers are not considered employees of any cab company. Williams said they have to pay for everything.

Williams asked if the cab drivers will have to pay for the cab to be painted. Beller said the owner of the vehicle, and it is an unusual situation involving a contract between the company owner and the operators. Purcell said there was more to the change than the color of the vehicles.

MOVED by Beller, SECOND by Purcell, to approve Ordinance No. 98-13, waive the reading of the ordinance, read the title only, and include the amendments distributed tonight.

(Title read by Clerk) ORDINANCE NO. 98-13

An ordinance relating to taxicabs, amending Article 24, Chapter 7, Lawton City Code, 1995, amending provisions relating to certificate of necessity, notice, insurance requirements, suspension of revocation of certificates and appeals, taxicab drivers permits, grounds for denial of drivers permits, revocation and suspension of drivers permits, requirements for taxicab, and providing for severability.

AYE: Purcell, Shanklin, Beller, Green, Warren, Smith, Williams, Sadler. NAY: None. MOTION CARRIED.

Beller said the committee was asked by the operators to review the fare structure and authorization was necessary in regard to continuing the committee and allowing it to review the fare structure. Cruz said the committee has submitted its report and ceases to exist so this could be brought back at the next meeting. Shanklin asked if that could have been included in the previous motion and Cruz said no. Schumpert asked if there was a consensus that the Mayor appoint the committee to review fare structures and Cruz said yes. Powell said he would do so.

3. Accept the recommendation from the Lawton Water Authority, consider proposing a new sales tax ordinance for voters approval, and give appropriate guidance to the City Attorney on the taxing ordinance. Exhibits: Draft Ordinance.

MOVED by Purcell, SECOND by Beller, to table this to an indefinite date. AYE: Shanklin, Beller, Green, Smith, Williams, Sadler, Purcell. NAY: Warren. MOTION CARRIED.

BUSINESS ITEMS:

4. Hold a public hearing and consider an ordinance amending Sections 18-205, 18-209, 18-213, and 18-215, Chapter 18, Lawton City Code, 1995, modifying powers of the Board of Adjustment and establishing the findings required for variances. Exhibits: Ordinance No. 98-14; Drawing; Draft LMAPC Minutes.

Bob Bigham, City Planner, said the Board of Adjustment is a quasi judicial body that is authorized by State Statutes; the Board has certain powers to grant variances within the zoning code but cannot grant variances of uses in zoning districts. The ordinance expands the current powers of the Board of Adjustment to allow variances to be considered for lot developments, platted lots in existence prior to 1964 when the City adopted the zoning code. The Chairman of that Board of Adjustment requested the language be the same in the City Code as in State Statute. LMAPC on April 22 held a public hearing and recommended approval.

Bigham said the purpose of the Board is to hear cases where the Code creates a hardship in the development other than financial; each case will have a different set of facts. He said using the statutory language for the findings adds clarity to the ordinance. Page Two defines what variances may be granted and considered by the Board, and the Board must make certain findings to grant a variance on a specific case.

Shanklin asked if State Statutes say how the Board can operate and Bigham said yes. Shanklin asked if State Statutes contain the requirement for publication of ten calendar days and that the owners within 300 feet be notified. Bigham said yes. Shanklin said a variance cannot adversely affect others so he did not see why that would be required. John Vincent, Senior Assistant City Attorney, said the Board is authorized by State Statutes, and that gives the City the authority to create such a board. Vincent said the four findings are listed that the Board must specifically have; two years ago when the ordinance was amended, we attempted to put in common language that could be understood but other attorneys researching state law could not correspond the Code language with State law. Vincent said the findings that must be made are straight from the Statutes.

Purcell asked for an explanation of the substance and reason for this proposal. Bigham said six items are listed as specific powers that the Board can grant; they can vary the required set back when there is 30% less of the

required setback; for example, a residential house in R-1 zone is a five foot set back; this would allow an 18" variance so they could go down to three and a half feet. The second part is, vary any required building setback line that is encroaching to conform to setback of other buildings already established; you have situations in North Addition where there is 100 foot right of way; all the houses are 10-15 feet back from the property line as opposed to the 25 feet required front yard set back. This would allow them to vary with the other structures. On Number Two, on lots that were created or platted prior to 1964, they have the ability to vary lot width, lot frontage, lot area coverage, and open space requirements on residential lots when they existed prior to the zoning code.

Purcell asked if the Board did not previously have the latitude to grant variances under these circumstances. Bigham said they tried to use common language previously, but comparing it to other case law, it became confusing as to what matters could be heard by the Board, so they will now be listed in the Code showing the criteria and findings required. Powell asked if this would be beneficial to persons as opposed to taking something away. Bigham said this expands the authority.

Green asked if this would help the situation at 17th and I on the triangle with the driveway. Bigham said no, the Board does not have authority with regard to safety related items.

Beller said one section provides that variances to off street parking may not be granted which alter safety requirements, and a request was recently received from Pat Henry School. He asked if this would preclude that from happening. Bigham said the Board of Adjustment does not have authority to grant parking on the City right of way; only the Council has that authority.

Williams asked if these are the only ways to make exceptions for situations that exist now. Bigham asked if Williams was referring to Pat Henry School and Williams said no. Bigham asked if the question was whether the Board of Adjustment is the only way to vary restrictions that are shown in the zoning code. Williams said yes. Bigham said yes, unless there is a provision such as continuing parking on the right of way. Williams asked if a homeowner could come to Council for a variance or to the Board of Adjustment. Bigham said the Board of Adjustment.

PUBLIC HEARING OPENED. No one appeared to speak.
PUBLIC HEARING CLOSED.

Shanklin said this is for non-conforming lots which do not have 6,000 feet and you cannot build on a lot containing less than 6,000 feet. He said in Old Town North, a setback is much greater than in the new additions which penalizes the owners with regard to use of their property. Shanklin said you can only build 40% under roof on your lot; if you have a 6,000 foot lot, that is 2,400 foot of house, by the City Code; not the State law, BOCA Code, or anything else, and it is exactly 40%, which is an arbitrary figure. He said to be able to expand that, you must go before the Board of Adjustment, and some may not have been told they had that right and may not have known they had the right to use their property by adding a bedroom or den, and may have moved from the area. Shanklin suggested the 40% number be examined in the future and that he did not feel it was fair.

MOVED by Shanklin, SECOND by Green, to adopt Ordinance No. 98-14, reading the title only, and declaring an emergency.

Cruz said it is not an emergency. Shanklin said he was declaring it an emergency. Cruz said it cannot be. Shanklin said he asked that it be prepared in that manner. Cruz said it was not shown on the agenda as an emergency. Motion was changed to delete the emergency provision.

(Title read by Clerk) ORDINANCE NO. 98-14

An ordinance related to planning and zoning, amending Section 18-205, correcting citations under powers of Board of Adjustment; Section 18-209, modifying variances allowed and deleting minor variances; Section 18-213, modifying the findings required for variances; and Section 18-215, modifying citations; and repealing Section 18-214, deleting procedure for minor variances and reserving this section number for future use, Chapter 18, Lawton City Code, 1995.

VOTE ON MOTION: AYE: Beller, Green, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

5. Consider adopting an ordinance amending Section 19-111, Chapter 19, Lawton City Code, 1995, as amended by Ordinance No. 98-7, to delete the requirement for a permit for the Day Use Area if the user currently holds another type of City lake permit and reinstate the Senior Citizen Camping discount schedule, and declaring an emergency.

Exhibits: Ordinance No. 98-15.

Shanklin said he brought this back because Council had been told on several occasions and in the newspaper that the fees would be competitive and less than what senior citizens paid elsewhere and that is not the case. He said Lawtons facilities are not comparable to others as far as water, sewer and electrical; Lawton has electrical

connections and a water hose that can be dragged 200 feet, and others charge half the normal camping rate, plus \$3 for electrical hookups, which is \$9 so it is still cheaper than Lawtons preferred site of \$10, and the others have more up to date facilities. Shanklin said it is a matter of believing the senior citizens are entitled to a break, and if many of them could afford to go other places, they would do so, but many are getting older and cannot travel as far as they could previously. He said the amount of money is not that great and it is an opportunity to recognize senior citizens, which is done state wide by most agencies.

Purcell said another change is a person gets in the day use area free if he has another annual permit.

MOVED by Shanklin, SECOND by Smith, to adopt Ordinance No. 98-15, read the title only, and declare an emergency.

Williams said the recommendations of staff and the initiator are different. He said items are approved, then members receive calls and the items come back and they are rescinded. Williams said at some point Council needs to stay with some of the things they do. He said he favored this item but Council seems to be reconsidering a lot of items.

(Title read by Clerk) ORDINANCE NO. 98-15

An ordinance relating to recreation, amending Section 19-111, Chapter 19, Lawton City Code, 1995, as amended by Ordinance No. 98-7, modifying certain camping and picnicking regulations; providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Green, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: Warren. MOTION CARRIED.

6. Consider adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending fees for Day Use and Camping at City Lakes. Exhibits: Resolution No. 98-75.

MOVED by Shanklin, SECOND by Green, to approve Resolution No. 98-75. AYE: Smith, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: Warren. MOTION CARRIED.

(Title only) RESOLUTION NO. 98-75

A resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending Camping and Picnicking fees at Lake Lawtonka and Lake Ellsworth and providing for an effective date.

7. Consider approving the Environmental/Ecosystem Management Plan for the control and management of Prairie Dogs in Elmer Thomas Park. Exhibits: Letter of Request; Elmer Thomas Park Environmental/Ecosystem Management Plan; Letter for Prairie Ecosystem Conservation Alliance.

Dick Huck, Parks & Recreation Director, said August 12, 1997, Council approved the plan to relocate the prairie dogs from the park. Over 700 have been moved and relocation stopped in the winter due to various problems in the survival rate during cold weather. During this time, staff met with various volunteers to assist in relocation. Assistance was provided by Cameron University Department of Science and Technology with regard to information on the best way to relocate the animals, as well as from the Department of Wildlife Conservation. Members of a committee are present to speak. Huck said the Parks & Recreation Commission recommended retaining two small towns in the park to perpetuate the prairie dogs; Council action was to relocate all of them and staff will proceed with continuing the relocation unless that action is rescinded, and relocation would begin in June.

Warren said if Cameron University would like to fund, on its own, a containment facility that will keep the prairie dogs from burrowing under or any other way being released into the other portions of the park proper; if they would provide a liability insurance policy in an appropriate amount for personal injury or property damage the dogs might cause, and that there is an understanding that the City of Lawton would in no way be responsible for the upkeep of these animals, neither through monetary funds or in-kind services, he would be willing to lease that area of the park to the group for \$1 a year or the normal process. He said he did not have a problem with it being there but did have a problem with the City being saddled with the responsibility of keeping up with the procreation of the animals and their capture.

Warren said on August 12, 1997, Ms. Maples made a motion, which he seconded, to adopt staffs recommendation to approve the request of the Oklahoma Department of Wildlife to relocate each and every one of the prairie dogs located at Elmer Thomas Park to state approved sites in Oklahoma. He said it is nine months later and the prairie dogs are still there; he realized there was about three months where it was too cold but they have been out about two months now. Warren said Council directed they be moved and that he wanted to know why this happened.

Huck said relocation took place until inclement weather and it stopped until the weather improved. He said information from the Oklahoma Wildlife Department and the Science and Technology Department at Cameron indicated the best time to successfully move them would be in June. Huck said over the last six weeks, the young pups are out and to have a successful relocation, you must wait until the pups are older, so it was a humane issue.

Beller said Dr. Tyler and a group from Cameron have done a paper and appear to have a workable solution. He said people come to the park to watch the prairie dogs and it is a tourist attraction and brings people to Elmer Thomas Park, to include the Museum, Auditorium and Percussive Arts Society. Beller suggested having two controlled colonies would be an advantage.

Purcell asked how many prairie dogs are still there. Huck said probably over 1,000. Purcell asked if that is where we were when we started and Huck said between 1,200 and 1,500; however, it is difficult to get an accurate count. Purcell said he had questions for the Prairie Dog Preservation Committee. Dave OKeefe, Dean of the School of Science and Technology at Cameron, and Jack Tyler, Professor of Biology at Cameron University came forward.

Purcell asked how many the group proposed to have in each of the two colonies. OKeefe said they are not certain and investigation continues as to what others have found in terms of a minimum number to maintain a healthy colony; the best guess is 200 per unit. Purcell asked how they would be contained, pointing out the walls at the Oklahoma City Zoo which is concrete six feet deep. OKeefe said burrowing is not the issue with regard to how many there are, and research suggests burrowing is not so much how they extend their habitat and it is really over the surface so if they put up appropriate visual barriers, they will pretty much stay put. OKeefe said that will be a part of their research study and if it turns out not to work, they will look further.

Purcell said as they start to multiply, which they do, what would be the plan to keep the population to 200 in each unit. OKeefe said the same as last year but hopefully with more efficiency and better treatment in terms of the process used; the parks department is prepared to work with the University, preservation committee, and volunteers, who would go in about twice a year, depending on the need, and continue to look for homes for the animals.

Purcell said the problem is we started with 1,200 to 1,500 and went through this process but they multiplied quicker than they could be relocated. He said euthanization causes an uproar and asked if that method would be considered or only relocation, and without a good plan, it would be a losing battle. Purcell said he did not want the City continually spending money in this regard, and if someone wants this, they should raise the funding and the City should not be responsible.

OKeefe said he was not convinced there were that many animals out there at this point and they had not done a count this year, and estimated 300 last year. He said if the level is reduced to a workable number, that with a collection or two each year with the assistance of the parks department, they could control the number of animals.

Green asked the impact if the federal government would place the prairie dogs on an endangered species list; how it would affect the park and whether or not they could be moved from the park. Tyler said there are processes where populations of that nature can be regulated, but a permit is required. He said Lawton would be providing a great service if it were perpetuating the species in the park. Green asked if they could ever be removed from the park if the government declared them an endangered species. Powell said he had followed that subject to a degree and the government would move such animals from one place to another so they could survive and increase their population.

Warren said he had no problem with the animals remaining but had a problem with the City paying for it and with the containment issue. He said Huck explained the animals remain because they are to be moved during June and asked which two times a year the animals would be moved. OKeefe said once the pups are old enough to survive a move, the animals are collected in family units and it would be safe to move them at this time of the year; he anticipated a late spring and early fall collection, or perhaps a continual process depending on how many needed to be moved.

Shanklin asked how the prairie dogs take care of the deceased members and if that represented some type of health or hygienic or disease problem. Tyler said they thought the animals died underground and may be sealed off in chambers, although they did not know for sure, and that could be included in a research study.

OKeefe said they had tried to set up a system to allow the City to take advantage of the University and the community to make the park have a lot more activity, and they would like to use the park as a living laboratory, working with the parks department. Powell said it is an opportunity to move forward. Williams said the animals have been in the park for a long time, that he liked them, and wanted them to remain. Williams said a bigger issue is the partnering with Cameron for the research.

Green said she could not believe Council was faced with this issue again. She said she did not like the animals and felt they should be in the wildlife area, and Cameron could do research in the park without the prairie dogs. Green said the museum is wonderful and the park has shrubbery and trees and they will not last. She said there are about 200 of them on Rogers Lane and when they begin to cross the highway, there will be accidents and that should be controlled.

Sadler said he agreed they were a tourist attraction and recommended this be given a chance for two or three years. He said if it does not work and the population is not controlled, the item could be returned to Council. Sadler said the animals do not come close enough to people to cause harm and did not feel they were a liability.

Warren said the recommended action is to approve the management plan to control and confine approximately 200 prairie dogs. He said he saw nothing in the plan about confinement. Purcell said there is not much of a plan, and he thought there should be partnering with Cameron, but a plan is needed and has not been provided. He said there are statements that prairie dogs in the front and south of the Museum and outside the walking trails will be removed, and thereafter on a continual basis, but no containment. Purcell said the last line states "however, all parties involved must realize that the ultimate responsibility for the Elmer Thomas Park prairie dog town lies with the City of Lawton". He said that is in the plan and he could not accept that. Powell said the ultimate responsibility does lie with the City and if this does not work out, other action can be taken.

Warren said the Council deemed they be removed; that has not happened. He said the point in the Council making that decision was that the Council did not want the ultimate responsibility for the Elmer Thomas Park prairie dogs any longer. Warren said there is not a plan here; the information suggests leaving everything as it is now, remove 200 prairie dogs and see what happens. He said we know what happens, they will be back in the ball fields at Lawton High like they are now, and a plan is not needed to find that out.

Mike Keester said he flew to Lawton today to talk to the Council about prairie dogs in Elmer Thomas Park. He said when persons are asked to picture a park, they normally visualize a green, grassy area with occasional trees. Keester said that is not a park natural to this part of the country; we live in a prairie and what you are picturing is an African savannah; that is not a type of ecosystem that is native to the United States. He said the keystone to the Elmer Thomas Park prairie is the prairie dog, and suggested the unique ecology and prairie dogs remain making Lawton progressive in that regard.

Warren asked Keester if he felt there should be no containment of prairie dogs. Keester asked if you contain rats and said the prairie dogs are wild animals and there should be containment, and they must be limited to the park. Keester said the prairie dogs have been in the park for over 100 years and the research on containment of prairie dogs is new and can be carried out in the park. Keester said it was his understanding that there had been a containment problem only in the last few years. Schumpert said that problem was in existence in 1971 when he was in charge of the parks and recreation and has been since. Keester said they have not populated the entire city. Schumpert said no, the park superintendent at that time, carried out euthanization activities and the populations continued and thrived. Beller spoke in favor of the proposal.

MOVED by Beller, SECOND by Williams, to approve the environmental ecosystem management plan, although there is not a plan in hand, but give them the opportunity to work up the plan, and work with them on it, and confine approximately 200 prairie dogs in two colonies in Elmer Thomas Park.

Carles Sowers said there seems to be a conflict between the trees and prairie dogs, and those animals are not under control. He said McMahon Foundation provided a grant for the museum, and trees have been planted that are not maintained and have been destroyed by the prairie dogs. Sowers said teachers are sending students to study the prairie dogs, which have become somewhat domesticated by being in Elmer Thomas Park. He said kids play on cement slabs which have holes under them and the animals are there with the children rolling around in the areas. Sowers said he watched the park representative and the Cameron instructor and two students who wasted a bunch of water; no other students showed up and no prairie dogs were captured. He said a newspaper article mentioned prairie dogs being placed on an extinction list and should that occur, the park will have been lost and will not be available for use for fear of disturbing the prairie dogs.

Purcell asked how long would be given for actions to be taken to prevent continued damage to the ball fields, trees and museum. Beller said he did not know an appropriate time frame. Shanklin asked what damage had occurred at the Museum and Purcell said there are holes at the base. Powell said he understood the Cameron representative to say this would be an on-going process to keep them under control through October. Beller said he thought it would be at least a two year program and suggested a plan be presented showing what would be expected during that two year period. Beller said the plan should be received in 90 days.

Tammy Brown Lopez, 2505 NW Columbia, said she had a challenge as a business owner in the community and parent. She said the school system does not have the money to bus the children to the refuge each year, so if we can promote an outdoor ecosystem in town, not only are we developing the town, but also an opportunity for the kids who are not able to see the natural environment. Lopez said as a business owner she looked at it as income from tourists; other cities have developed outdoor ecosystems with prairie dogs. She said the prairie dogs were there first and it would be narrow minded to look at it only in terms of economic values. Lopez said there are persons who would like to develop grants to study the prairie dogs. She said many times, people go to see the prairie dogs and then go the museum as an after thought.

Joe Anderson said he works at the Museum of the Great Plains. He said financial benefits of the prairie dogs

probably outweigh efforts to get rid of them. Anderson said four or five people came from Germany last week to see the prairie dogs in Lawton and generated tourism dollars. He said the cooperative effort that can develop between the Museum and Cameron would be beneficial and perhaps a documentary film could be made because prairie dogs are a big issue right now.

Beller said the motion should reflect a request that a plan be presented to the City within 90 days.

VOTE ON MOTION: AYE: Smith, Williams, Sadler, Shanklin, Beller. NAY: Purcell, Green, Warren. MOTION CARRIED.

8. Consider directing that a special, joint meeting be set with Comanche County Commissioners and Lawton City Council to discuss services provided by each entity. Exhibits: None.

Warren said there had been discussions with the county concerning their participation in the road project for the prison, and Lawtons participation, and possibly a joint jail project. He said both areas involve raising and spending tax dollars, and there are other things the two could get together on that do not cost anything, and in fact would free up some money. Warren said Lawton has a state of the art dispatch system and could handle the countys needs, and many other areas could be investigated in an attempt to do the same job for less money resulting in funding being available for projects that are needed.

Williams said he appreciated Warren initiating the item and felt the City was ready to move forward in an effort to save funds, which are generated from mostly the same people since Lawton is a big part of the county. He said there is a meeting Friday at 9:30 on the jail at the county commissioners office.

Purcell said he called the Eastern District Commissioner to see if he would be interested in attending such a meeting and he would like to attend. He said he supported a joint meeting between the entire Council and the entire Commission.

Powell said he concurred with the comments and appreciated the effort to bring it forward. He asked who would coordinate the meeting. Warren said if it is the consensus of the Council, he would direct the City Manager to get in contact with the commissioners and see if a joint meeting can be set up after the budget is finalized. This was agreeable.

9. Consider changing Council Policy 10-3 to allow commercial lawn mowing services to dispose of grass clippings and wood chips in the City Landfill at no charge. Exhibits: Council Policy 10-3.

MOVED by Williams, SECOND by Sadler, to approve Council Policy 10-3 allowing commercial lawn mowing services to dispose of grass clippings and wood chips at the City Landfill at no charge. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Warren. NAY: None. OUT: Green, Smith. MOTION CARRIED.

10. Consider adopting an ordinance repealing Sections 2-103 through 2-106, and Sections 2-201 through 2-212, relating to the powers, duties and appointment of the Mayor, City Manager, and City Clerk, and the functions of the administrative departments of the City. Exhibits: Ordinance No. 98-16.

Cruz pointed out this is for clarification; certain duties are included in the Charter and it is not necessary for it to be also stated in the City Code.

MOVED by Beller, SECOND by Williams, to approve Ordinance No. 98-16, waive reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 98-16

An ordinance relating to administration, repealing Sections 2-103 through 2-106, inclusive, Article 1, Chapter 2, repealing functions, duties and responsibilities which are listed in the chapter for the Mayor, City Manager, City Clerk and certain administrative departments; reserving the numbers for future uses; repealing Sections 2-201 through 2-212, inclusive, reserving the numbers for future uses; repealing the duties, functions, and responsibilities of administrative departments, Article 2, Chapter 2, Lawton City Code, 1995.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

11. Consider adopting an ordinance amending Sections 4-108 and 4-207, Chapter 4, Lawton City Code, 1995, prohibiting minors from entering or loitering in lounge or bar areas. Exhibits: Ordinance No. 98-17.

Williams said he attended a restaurant association meeting today and this item came up and there were concerns whether existing restaurants that have mixed beverage and beer areas as to how that would impact them. Cruz said it would not have any impact on them. Shanklin said not if food is their primary source of revenue. Cruz said

what this is basically saying is that if there is an area reserved for alcoholic beverages, then only persons under 21 years of age may not enter there; for example, Mikes and Martins and others are not affected because they already have a separate area for selling hard liquor, and also taverns. Shanklin said they serve it all over the building and eating area, and that is not designated for a certain age.

Williams asked the intent of the ordinance. Cruz said they were trying to make it clear that if an establishment has as its primary purpose other than the serving of beer or hard liquor, then persons under 21 years of age may not enter that area, but they could go into the restaurant area; for the sake of discussion, Mikes, their main function is to serve food and an ancillary function is the serving of liquor or beer. Cruz said that does not prohibit taking the liquor or drink to the table provided that it is not served either by a person under 21 years of age or to a person under 21 years of age, and this strictly applies to those areas that are enclosed.

Williams asked what we were trying to accomplish. Cruz said we are trying to make it clear that if you are under 21 years of age, you are not to enter a designated area. Williams asked if that is currently regulated by the ABLE Commission. Cruz said it is regulated by the ABLE Commission, and it is also regulated under our ordinance. Williams asked if it is targeted toward facilities whose major purpose is to sell alcoholic beverages and then sell food on the side, and said he did not yet understand. Cruz said the major purpose is, for example in places which primarily sell beer that do not have a designated area, then persons under 21 years of age are not to enter.

Shanklin asked if it was the proprietors responsibility to see that a person is not 21 years old. Cruz said yes, the licensee must insure those persons are not admitted. Shanklin asked if that is a State Statute. Cruz said it is in the ABLE statutes, and also the City Code. Shanklin said he thought it was changed at one time to be the responsibility of the person with the false ID and that was removed from the proprietor, and that he had been in that business and knew what he was saying. Cruz said it is both ways, we hold the proprietor responsible to insure persons under a certain age are not admitted, but we are also saying that you as an individual are not supposed to be in there so it could also apply to the minor.

Purcell said the way he read it, it would not apply to a place such as Mikes or a food place, and everything states that no establishment which has its main purpose as the selling or distribution of alcoholic beverages, and that is what is being considered. He said it seemed it should be easily approved because we do not want those under 21 in that kind of place.

Williams asked if those under 21 years of age can enter a beer joint. Warren said it was his understanding they could go in if there was any food sales. Cruz asked the Police Chief to provide an example.

Bill Adamson, Police Chief, said Section C clearly states that this is directed at establishments whose main purpose is selling and distributing alcoholic beverages, and that would be a place such as Helens Club, or what was referred to as an old bottle club in the past. He said the ordinance provides that if they do not have a separate area, a distinct area to prevent those under 21 year old from entering, then the entire club would be off limits to those under 21, and that is one reason for the ordinance. Adamson said the other portion pertains to taverns, beer bars such as those on Fort Sill Boulevard, and in those areas persons under 21 would not be allowed to enter; and the other section, State law reference, would apply to establishments such as bowling alleys where there is an area where you can buy beer but it is separate and distinct and a person under 21 would not be allowed in that area.

Adamson said Mikes only applies in part because they do have a separate bar area, or Applebees which has a separate bar area, and under 21 cannot go in those areas. Powell asked if they could not go in the bar area but go in the food area and Adamson said that would be fine. Powell said his understanding was it applied to those that strictly sell alcohol to make their livelihood and asked if that was correct. Adamson said yes.

Williams asked if something had come to light recently to cause the ordinance modification, or if it had been an on-going problem. Adamson said it was his opinion that people under 21 years of age should not go into taverns because their sole purpose is for the sale of beer, referred to as non-intoxicating beverages. Adamson said they have not enforced it in that manner; the ABLE Commission could but it does not normally deal with non-intoxicating beverage establishments such as taverns, although they can if they so desire because of the laws. Williams asked if that was 3.2 beer and Adamson said that is defined as non-intoxicating beverage.

Shanklin said to be a restaurant, your revenues must exceed 50% in food, and if not, you are designated as a bar, lounge or restaurant. He asked if that was still correct. Cruz said yes.

Schumpert asked if the problem was police go into a place and point out people under 21 and the response is they are authorized because they are over here, and the police say there is not a designated area, and they say they do because there is a mark on the floor. He said the basic problem is that some argue over what is a designated area, and there are no problems with places like Mikes or Applebees or whatever, which have clearly marked and defined designated areas, but in many of the establishments, it may be a line of chairs or a table, or a smoking area being defined as those tables containing ashtrays, so the idea is that if you do not have a designated area, your entire place will be considered as being off limits to those under 21.

Adamson said that is one of the primary purposes of this, and it is true that the separate and distinct can be difficult to establish. Beller asked if there will be a code saying there will be a barrier separating the two areas, or a wall, or counter top, or if a rope would suffice such as is used in a bank. Adamson said a roped off area is sufficient because it is separated.

Warren said the gist seemed to be that when an officer, or a patron, walks into an establishment, they know who is and who is not supposed to be in that area, whether it is a rope or a half wall, but something so everyone knows the rules and no one is confused.

Shanklin asked the state law on consumption of beer and if we are doing something the state law does not cover; we can make it more stringent, but not less. Cruz said on hard liquor, we can make it more stringent than the state and similarly with beer. Shanklin said this is talking about lounges and bars and those under 21 are not supposed to be in there to begin with by state statute.

Purcell asked if the problem was with underage people entering places and saying they are allowed to do so because they have a microwave oven and sell a pizza once every five hours. Adamson said that had been a problem, as well as people saying they are playing pool. Shanklin said the establishment must prove it is a restaurant, and tax returns must be produced to verify food sales.

Powell said he was personally in favor of the ordinance and requested a motion.

MOVED by Beller, SECOND by Warren, to adopt Ordinance No. 98-17, waive the reading of the ordinance, read the title only.

Shanklin asked if the proprietor will be responsible for someone with a false ID. Powell said at his store, he would be responsible for selling cigarettes to a minor and they have to check that themselves, and the proprietor is responsible as well and the minors should be taken care of. Shanklin said he could not believe that someone with 200 customers has to be responsible for the five who have false IDs. Powell said he wished that could be controlled.

(Title read by Clerk) ORDINANCE NO. 98-17

An ordinance relating to alcoholic beverages, amending Sections 4-108 and 4-207, Chapter 4, Lawton City Code, 1995, prohibiting minors from entering or loitering in lounge or bar areas.

VOTE ON MOTION: AYE: Purcell, Beller, Green, Warren, Smith, Williams, Sadler. NAY: Shanklin. MOTION CARRIED.

12. Consider approving a request for the City to install and fund a left turn and right turn bay for the Lawton Technology Park at SW 40th and West Lee Boulevard. Exhibits: Schematic drawing and letter from Advancia Corporation; Letter dated 4/21/98 from Public Works/Engineering Director.

Purcell said he would announce that he would excuse himself on this as it is a personal and indirect conflict of interest and he would not participate. Purcell left the chambers at this point.

Schumpert said a request was received for Lawton to approve and construct the two turn bays. Research indicates the turn bays meet the standards for turn bay location, however, those costs are almost always paid by the company or entity making the request and the staff recommendation is to deny payment of the costs.

MOVED by Williams, SECOND by Warren, to approve the request for Advancia Corporation to fund themselves the left and right turn bays for the technology park at SW 40th Street and West Lee Boulevard. AYE: Shanklin, Beller, Green, Warren, Smith, Williams, Sadler. NAY: None. OUT: Purcell. MOTION CARRIED.

13. Consider waiving Council Policy 8-2 and consider approving a request for a left turn bay and median opening at 902 SW Goodyear Boulevard. Exhibits: Letter from Goodyear Tire & Rubber Company; Council Policy 8-2; Key Map.

MOVED by Shanklin, SECOND by Green, to approve the item as stated. AYE: Beller, Green, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

ADDENDUM BUSINESS ITEM:

1. Consider adopting a resolution amending Resolution No. 98-66 pertaining to Landfill Fees, extending the effective date of Resolution No. 98-66 to July 1, 1998. Exhibits: Resolution No. 98-76.

MOVED by Purcell, SECOND by Beller, to rescind Resolution No. 98-66 by adoption of Resolution No. 98-76. AYE: Green, Williams, Sadler, Purcell, Beller. NAY: Warren, Smith, Shanklin. MOTION CARRIED.

(Title only) RESOLUTION NO. 98-76

A resolution repealing Resolution No. 98-66 which increased the rates for landfill fees for commercial refuse.

CONSENT AGENDA:

ITEMS 14, 17, 18, 25, 27, 28, 29, 31 AND 32 WERE CONSIDERED SEPARATELY AS SHOWN BELOW.

15. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claim over \$400.00: John and Nancy Bartlett, David Baxter, John A. and Nancy G. Evans, Wesley N. and Mary Sue Silk, Beverly Wade, and Alfred and Margaret Williams. Exhibits: Legal Opinions/Recommendations. (Resolutions on file) Action: Silk - \$82.50; Wade - \$11.95

(Title only) RESOLUTION NO. 98-77

A resolution authorizing and directing the City Attorney to assist John Bartlett, Jr. and Nancy Bartlett in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Two Thousand, Four Hundred Eighty-Three Dollars and 05/100s (\$2,483.05).

(Title only) RESOLUTION NO. 98-78

A resolution authorizing and directing the City Attorney to assist David Baxter, dba Premier Carpet Care, in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Seven Thousand, Eight Hundred Eighty-Two Dollars and 92/100s (\$7,882.92).

(Title only) RESOLUTION NO. 98-79

A resolution authorizing and directing the City Attorney to assist John A. and Nancy G. Evans in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Four Hundred Thirty-Two Dollars and No/100s (\$432.00).

(Title only) RESOLUTION NO. 98-80

A resolution authorizing and directing the City Attorney to assist Alfred H. and Margaret F. Williams in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Four Hundred Forty and 88/100s (\$440.88).

16. Consider approving plans and specifications for the Gore Boulevard Enhancement Project and ratifying the actions of the Mayor and City Clerk executing the final plans for submittal to the Oklahoma Department of Transportation. Exhibits: Letter from ODOT dated 4/20/98; Location Map. Action: Approval of item.

19. Consider entering into a contract with Mr. and Mrs. John Ryan for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None. (Contract on file in City Clerks Office) Action: Approval of item.

20. Consider entering into a professional services agreement between the City and James C. Ferguson of Walker, Ferguson and Ferguson for Workers Compensation claims. Exhibits: None. (Agreement on file in City Clerks Office) Action: Approval of item.

21. Consider ratifying the action of the Lawton Water Authority adopting a resolution increasing fees for commercial refuse service provided by the City of Lawton. Exhibits: Resolution No. 98-___; Current and proposed rates for commercial containers. Action: Ratify LWA action to table this item.

22. Consider rejecting a bid for a tractor. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Reject bids.

23. Consider rejecting bids for photography service. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Reject bids.

24. Consider extending contract for waste oil disposal. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Extend contract with ORI Recovery, Inc., d.b.a. Oils Recovery, and authorize execution. Extended to 6/30/99 at same terms.

26. Consider extending contract for dry dog food. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Extend contract with Mt. Scott Feed & Seed, and authorize execution. Extended to 7/31/99 at same terms.

30. Consider awarding contract for vehicles and authorize the purchase from the State contract. Exhibits: Vendors mailing list; tabulation. Action: Authorize purchase of four vehicles from Lynn Hickey Dodge from the State Contract.

33. Consider awarding contract for nuisance/abatement contract. Exhibits: Vendors mailing list; bid tabulation; recommendation. Action: Award contract to Service One Janitorial.

34. Consider hiring CDS Jazz to perform at the 1998 Juneteenth Celebration at O.H. Arnold Park on June 13, 1998. Exhibits: None. (Contract on file in City Clerks Office)

35. Consider hiring Ruby Terry to perform at the 1998 Juneteenth Celebration at O.H. Arnold Park on June 13, 1998. Exhibits: None. (Contract on file in City Clerks Office)

36. Consider hiring Dejah (Sharon Howell) to perform at the 1998 Juneteenth Celebration at O.H. Arnold Park on June 13, 1998. Exhibits: None. ITEM WAS PULLED AT THE BEGINNING OF THE MEETING AND WAS NOT CONSIDERED OR APPROVED.

37. Mayors Appointments. Exhibits: None.

CITIZENS ADVISORY COMMITTEE: Mark Stevenson, Ward 5, 5/12/98 to 5/12/2001

PARKS & RECREATION COMMISSION: Mark Stevenson, Ward 5, 5/12/98 to 5/12/2000

COMMISSION ON THE STATUS OF WOMEN:

Donna Dodd, Western Central District, 4/12/98 to 4/12/2000

Donna Richey, Ward 3, 4/23/98 to 4/23/2000

Betty Simmons, Ward 4, 4/23/98 to 4/23/2000

Jaine Shau, Ward 5, 4/12/98 to 4/13/2000

38. Consider approval of payroll for the period of May 4 through 17, 1998. Exhibits: None.

MOVED by Shanklin, SECOND by Green, to approve the Consent Agenda items as recommended with the exception of Items 14, 17, 18, 25, 27, 28, 29, 31, 32, and note that Item 36 had been pulled previously. AYE: Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

14. Consider the following damage claim recommended for denial: Johnny and Cynthia Hagans. Exhibits: Legal Opinion/Recommendation.

Mr. Hagans read from the letter he received stating on March 15, 1998, at approximately 7:45 p.m., the claimants vehicle, a 1997 Pontiac Grand Am, drove over an open manhole. He said he never said that in this statement. Damage is \$1,105.95. Hagans said at the time of the problem it was a rainy night, he was making a turn on 14th Street and the whole rear end of his wifes car came up off of the ground. He said he did not see a manhole open and it was raining and there was about an inch of water on the pavement. Hagans said there is a very deep ravine to the right and a person was on their porch, saw the problem, and called in. He said it took him 45 minutes to an hour to change the tire because of the conditions, and the City had not come all that time. Hagans said the rim was damaged and when he noticed that, he noticed cars going around an object in the road, so he rolled it back and returned it because the City still had not come out. He said he was sitting in his car and a patrolman came by and asked him why he was sitting there and asked if he was the one who they had called about and he said yes. Hagans said he got home at 9:35 p.m. and the City still had not come out.

Hagans said the letter states the City will not pay because no one had called and he asked who would have called except the person would had the accident. He said other traffic saw the object in the road and went around it. Hagans said it was the object that caused severe damage to his wifes car and that if she would have been driving it, she probably would have been hurt badly because he was barely able to get the car back under control. He said the City should stop trying to hide behind laws and make it right when there is damage to property, and that he would have to pay for damage if he caused it to City property. Hagans said this is a large amount for him to have to come up with and the first response he received was the cold letter. He said there were barriers around the area the following day, but none when he had the accident. Hagans requested the claim be approved.

Shanklin asked what Mr. Hagans insurance paid. Hagans said his insurance was not the issue and that his premium would go up because he had not been in an accident in 20 years, and that insurance had nothing to do with the City damaging his property. Shanklin asked what his deductible was and Hagans said it was none of Shanklins business. Shanklin said he would not be able to help. Hagans said it is \$500.

Williams said a water line is being installed on Baldwin and asked if that could have been a factor. Ihler said no, this involved a sewer main. Hagans said water and mud were coming out of the hole and it was a factor. Beller said State law provides the City is not responsible and that Mr. Hagans would have recourse in District Court if the claim were denied.

MOVED by Beller, SECOND by Warren, to deny Item 14.

SUBSTITUTE MOTION by Green, SECOND by Shanklin, that the gentleman be given back the deductible from his

insurance of \$500, to be verified, and adopt the resolution. AYE: Williams, Shanklin, Warren. NAY: Smith, Sadler, Purcell, Beller, Warren. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Williams, Sadler, Purcell, Beller, Warren, Smith. NAY: Shanklin, Green. MOTION CARRIED.

17. Consider accepting donation of a sign for the Museum of the Great Plains from The McMahon Foundation and authorize the Mayor to sign letter of acceptance. Exhibits: Letter from McMahon Foundation; Letter of acceptance.

Williams said he wanted attention brought to the fact that the McMahon Foundation was helping the Museum, as the Museum Authority Chairman he wanted to recognize their donation of the sign for the Museum.

MOVED by Williams, SECOND by Smith, to accept donation of the sign for the Museum of the Great Plains from the McMahon Foundation and authorize the Mayor to sign a letter of acceptance. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

18. Consider approving an agreement for the sale of treated water to the Town of Medicine Park. Exhibits: Agreement; 6/19/97 Water Committee Minutes.

Shanklin said a letter was received from a councilman at Medicine Park and suggested the item be tabled until their meeting is held and asked if Ronnie Graves was attending the meeting at Medicine Park. Schumpert said Graves appeared at Medicine Parks meeting tonight and that he would only talk about the operation of the plant, chemicals used and that type of thing; other issues were addressed in the letter which Graves will not discuss.

Shanklin asked if it was necessary to act on this item now. Williams said he felt there were two separate issues. Shanklin said he agreed but did not want Medicine Park telling Lawton to pay them sales tax. Cruz said that would not apply because the property is not annexed and the sale does not take place until it reaches our meter and leaves the meter and there is no sale of water from the Medicine Park plant. Schumpert said water is sold to Fort Sill and Cruz said it does not matter. Schumpert said the water does not get all the way to Lawton before we sell it because we sell it to Fort Sill at a point in between, and he wanted the record to be clear. Cruz said he had no problem.

MOVED by Shanklin, SECOND by Beller, to approve the item. AYE: Purcell, Shanklin, Beller, Green, Warren, Smith, Williams, Sadler. NAY: None. MOTION CARRIED.

25. Consider extending contract for high intensive use chairs. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Extend contract with Domore/Do3, and authorize execution. Extended to 6/30/99 at same terms.

Shanklin asked what about the type of chair and why the cost is \$800. Schumpert said the chairs are in the dispatch center and are used 24 hours a day by several people, and one claim was received based on the previous chairs.

MOVED by Shanklin, SECOND by Green, to approve the recommended action. AYE: Shanklin, Beller, Green, Warren, Smith, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

27. Consider awarding a contract for a loader/backhoe. Exhibits: Vendors mailing list; tabulation; recommendation.

Shanklin said this is a backhoe for \$59,300 from Boyd out of Oklahoma City, and the low bidder from Lawton was nonresponsive because he could not meet the specifications. He asked how important that specification was to the Specification Committee.

Purcell said the committee reviews specs, sends them back until they arrive with the basic requirement with no frills and they are then approved. He said he saw no reason to have the Specification Committee if the specifications are not honored. Shanklin said specifications can exclude bidders. Purcell said they do not write bidders out.

Powell asked the difference in the bids and the difference in the items causing the one bid to be rejected. Schumpert said the accepted bid had a multi-purpose bucket, and the low bid did not have that item. The multi-purpose bucket allows the employee to do about eleven functions that he could not do without that bucket.

Shanklin said information shows the bid was reviewed by the Wastewater staff and the recommendation is attached, but it goes to the Landfill. Schumpert said that is in error and the equipment is for the Landfill.

MOVED by Williams, SECOND by Purcell, to award the contract for the loader/backhoe to C.L. Boyd Company and

authorize the Mayor and City Clerk to execute the contract.

Powell said Page 148 shows a bid for \$48,300 from Lawton Tractor and Lift and asked if that is the true low bidder. Williams said the City Manager said it did not have the multi-purpose bucket. Powell asked if \$48,300 was the low bid. Williams said if we asked for a multi-purpose bucket and he did not supply it, it is a non-responsive bid. Powell asked the difference in prices.

Purcell said they go over the specs for hours in the committee and gave examples to show the need for the equipment. He said there is a savings but you would have a piece of machinery that would not do what it needs to do. Powell said there is a big price difference and asked if a bucket for a backhoe costs \$6,000. Purcell said it is for what it can do. Shanklin asked if we have had this bucket before.

Jim Taylor, C.L. Boyd Company, said to his knowledge they had not had a similar bucket before at the landfill. He said the main office is in Oklahoma City and they do have an establishment in Lawton employing about ten people.

Taylor said the bucket operates like a clam shell, you can pick up limbs, debris, big rocks, and so forth. The bucket can be opened and will act as a dozer blade and it can also be used as a normal bucket. Shanklin asked if those frills are really needed at the landfill. Schumpert said it is not a matter of frills but a matter of having the equipment that will do a number of tasks, and it is easier to buy the bucket than to buy two pieces of equipment to do the same thing, and this is needed. Schumpert said the expense was included in the budget and the Specifications Committee approved the specifications and staff recommended award.

Beller said the low bid is non-responsive if the specifications include a bucket and the bid from Lawton Tractor and Lift did not include that bucket. He asked if non-responsive bids had to be brought to Council for consideration. Williams said he wanted to see them. Schumpert said it is public record. Beller asked why someone would bid knowing their equipment did not meet the specifications.

Warren said a lot of time is spent not only by the committee, but also by the staff, deciding what to buy. He said it is important to buy the right item and non-responsive bids are received because Council will consider the amount as much as the need. Warren said the committee asks staff repeatedly what they need and the appropriate response would not be to award to the low but non-responsive bidder, but to rebid the equipment so the person who bid the expensive bucket has an opportunity to bid the cheap one. He said that would not accomplish the purpose staff is trying to accomplish but it would be the fair thing to do.

Powell said many backhoe operators can move rocks with a plain, common bucket. He said we are spending public money on the bucket and that bothered him. Difference was \$11,000 but \$2,000 of that was the warranty. The need for the special bucket was further discussed. Sadler said no information was provided as to whether the equipment was the same in all aspects other than the bucket. Sadler said you could be trying to save some money but buy something that was not worth anything.

VOTE ON MOTION: AYE: Beller, Green, Warren, Smith, Williams, Sadler, Purcell. NAY: Shanklin. MOTION CARRIED.

28. Consider awarding contract for automatic transmission repair. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Award contract to KCO, d.b.a Mr. Transmission

Shanklin said Lawton Auto Parts and ABC Transmission did not receive bid invitations and suggested it be put back out for bid. Schumpert asked if Shanklin was saying Lawton Auto Parts did not get a bid and Shanklin said if they did, the person in charge did not see it. Schumpert said it was mailed to him and Shanklin said his post office box is 588 and the person said it did not go to post office box 588.

Warren said the advertisement was sent out and only one response was received. He asked who was presently providing this service and response was Jimmys Transmission and he did not bid. Shanklin said we should be sure companies get advertisements. Purcell said they are mailed and advertised in the newspaper; items that have been rebid before resulted in the same people not bidding. Purcell said he did not know how to show a person received a bid packet other than sending them certified mail and having them signed for. Shanklin said he knew the person who owned D & N Transmission and asked him why he did not respond and he said his operation was not big enough and he also called the others. Warren said he would bid the next time also if he already knew what the bid was.

Shanklin offered a motion to reject the bid and rebid the item. The motion died for lack of a second.

MOVED by Shanklin, SECOND by Warren, to approve the contract as recommended. AYE: Green, Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

29. Consider awarding contract for playground equipment. Exhibits: Vendors mailing list; tabulation;

recommendation. Action: Award contract to Miracle Equipment Company.

Shanklin said one bid packet was received for \$48,000 and suggested the other 12 vendors were speed out. Shanklin suggested it be rebid so Council could at least consider what others have; four responses were received and three were no bid and one actual response.

MOVED by Smith, SECOND by Green, to award the bid as recommended.

Powell said it did not seem fair to accept one bid only because people need the business and maybe more effort is needed to find bidders. He said it is not fair to the taxpayers when only one bid is received.

Schumpert said the specifications were written and sent out at one point, and the criticism was that they were limited to certain companies that could bid so Council created the Specifications Committee. He said the director or staff attend the committee meetings, and the committee includes Council Members, and the staff justifies the specifications. Schumpert said the hit now is you are not awarding to local vendors, and the man stated earlier his company has business in Lawton and has ten employees, but we ignore the fact that he is a businessman in Lawton, and a business with ten people should be considered a legitimate business in Lawton. He said if it is not a business in Lawton, the comment is we did not get any responsive bids so we should expand the base. Schumpert said he could not force someone to sell him three pieces of playground equipment, and smaller communities pay twice what Lawton pays for certain items because they buy only two a year. He said discussion had been held on bidding larger quantities, and joining in with other cities, to get a better bid. Schumpert said the bid price is under the budgeted amount, which was \$45,000 and we will spend \$41,000.

Purcell said Shanklin had made several allegations that the Specs Committee had written the specifications in such a way that only one person could bid and that Shanklin felt he could fix the problem. Shanklin said the committee was led to believe a certain spec was needed, that he had previously been a member and that he had appointed the committee. Purcell said the committee spends time making sure there are a lot of companies who can meet specifications and he wanted that for the record and wanted to make it clear. Purcell said he would be resigning from the Specifications Committee in the morning and encouraged Shanklin or any other council member to serve on it and that he would no longer waste his time on it. Warren said Huck had been sent back at least once and did a good job the first time, but neglected to mark out the part numbers from where he had obtained the information and a picture from a catalog was to be removed; the basic specification was a slide no longer than X and a platform no smaller than a certain number of square feet. Shanklin asked if the committee decided how big the platform should be and Warren said staff brought the recommendation. Shanklin suggested a council policy be brought forward to expose no bids unless there are at least two responsive vendors. Williams suggested the City Manager have Purchasing contact the vendors who did not bid to determine the reason.

Schumpert said we could ask for a Case Tractor with a model number, or equivalent, and then everybody that makes a similar tractor will bid and we select the one we want. Sadler said he felt that was a good suggestion, and from his business operation, he would be able to determine what to submit if he had a brand and stock number, and that would work much better. Sadler said the person who bid did not know he was the only bidder, and had he known, the price may have been higher so this is a reasonable bid. Shanklin said the company had been supplying the equipment for years and knew it would be the only bidder.

VOTE ON MOTION: AYE: Warren, Smith, Williams, Sadler, Purcell, Beller, Green. NAY: Shanklin. MOTION CARRIED.

31. Consider awarding contract for flowmeter. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Award contract to American Sigma.

Shanklin asked where the equipment was going. Ihler said it would go on the sludge lagoons at Fort Sill for the water treatment plant; we discharge from those lagoons into Medicine Creek and DEQ requires we monitor the amount of flow.

MOVED by Shanklin, SECOND by Green, to approve the recommended action. AYE: Smith, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

32. Consider awarding contract for water sampling stations. Exhibits: Vendors mailing list; tabulation; recommendation. Action: Award contract to B20 & Associates.

Shanklin asked what the item is and what would be done with it. Ihler said it is a requirement by DEQ to take bacteria samples at about 100 locations within the water distribution system within the city, and the samples will be taken to check chlorine residual also. Shanklin asked if this was new. Ihler said crews have been pulling samples from various locations now, and this will be tied in and attached to the line with a little box.

MOVED by Shanklin, SECOND by Williams, to approve the recommended action. AYE: Williams, Sadler, Purcell, Shanklin,

Beller, Green, Warren, Smith. NAY: None. MOTION CARRIED.

Green said Item 36 had been pulled earlier and that Sharon Howell had decided herself not to appear at the concert.

BUSINESS ITEM:

39. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the negotiations for a Collective Bargaining Agreement for FY 1998-1999 between the Police Union, IUPA, Local 24, and the City of Lawton, and, if appropriate, take action in open session. Exhibits: None.

40. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to reconsider negotiations for an Employment Agreement for FY 1998-1999 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

ADDENDUM: Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled Clayton L. Green, Jr. and Russell Lane Green v. Holden Productions, The City of Lawton, Oklahoma, and The Board of County Commissioners of Comanche County, Oklahoma, and take appropriate action in open session. Exhibits: None.

SECOND ADDENDUM: Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement offer received in the civil suit styled Joan Bias vs. The City of Lawton, Case No. CIV-97-1765L, in the United States District Court for the Western District of Oklahoma, and take appropriate action in open session. Exhibits: None

Powell asked that executive session commence after a five minute break.

MOVED by Warren, SECOND by Williams, to convene in executive session as recommended, following the break. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 9:45 p.m. and reconvened in regular, open session at 10:40 p.m. with all members present upon roll call.

Cruz reported the Mayor and Council met in executive session to discuss the items listed on the agenda. On Item 39 relating to the negotiation with the police union, no action is need in open session. On Item 40 relating to the contract with the firefighter union, the item could be considered.

MOVED by Williams, SECOND by Smith, to roll over the existing contract for FY 1998-99.

SUBSTITUTE MOTION by Beller, SECOND by Purcell, to go to arbitration on the contract and not roll over the existing contract. AYE: Beller, Green, Warren, Sadler, Purcell. NAY: Smith, Williams, Shanklin. SUBSTITUTE MOTION CARRIED.

Cruz said on the addendum item on the Clayton Green, et al case, he requested permission to appeal the case.

MOVED by Purcell, SECOND by Green, to appeal the case. AYE: Beller, Green, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

Cruz said on the second addendum relating to the Joan Bias case, no action is needed at this time and the matter will be brought back at a later Council meeting.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Powell asked the date of the next meeting and the Clerk said it will be 5:30 p.m. on Thursday regarding the budget.

Green announced a rehearsal would be held at 5 p.m. on Saturday at the Union Baptist Church at 1531 SW Garfield for children participating in the Juneteenth Celebration; this will be for elementary grades 1-6. Juneteenth will be held June 13 at O.H. Arnold Park and is to promote ethnic identity and pride in the children through music and singing, and all elementary age students are invited to participate and will receive a free t-shirt.

Purcell said the police department should be commended on the crime rates being down almost 11% in all categories from the preceding year.

Beller said he had a concern about the Flower Mound Road project and what the City could do to help expedite the funding. He said he hoped the City could work with the County in an in-kind effort and asked if something could be activated to get the road to Wackenhut on its way. Powell asked for suggestions. Beller said he had a brief conversation with Gary Jones and he had some ideas on in-kind work and things he could do with county

equipment, and Jere Barnthouse suggested a joint venture, and Beller said his concern dealt with how the City could spend money on County roads.

Powell asked if \$115,000 had been approved from the CIP for the City's portion and if the City's one mile could be done. Schumpert said Council has not formally approved that expenditure, and the reason an item has not been presented is because the agreement with the parties concerned, being the district engineer and county and city, was that Harold Tomlinson would be the individual to draw up the plans and specifications. Schumpert said he understood the concerns but would comment that Lawton's one mile of road needs minimum repair to keep it in good shape; the second part is if you split these out and Lawton does one mile and then we arrive at some way to do the other, it would obviously cost more because one crew would move in and do the mile, then another crew or perhaps the same one would have to come back later and do the rest.

Beller said there was confusion and Jones said he did not know there were plans done. Schumpert said there was a meeting in the Library where Tomlinson was to do the plans and specs. Powell asked if it will be a joint venture between the city, county and state and response was yes. Powell suggested those three entities come together and move it expediently and that he would make the contacts in that regard.

Shanklin asked if the cost would now be greater on the School House Slough gas tanks due to the need for remediation. Schumpert said the cost is not known, and the City got \$5,000 from the former lease holder, and until you determine the extent of contamination, you do not know the cost.

Shanklin said Bar-S replied to the fines and asked if Bar-S had been told they had 90 days to get the kinks ironed out of their plant. Schumpert said we did not tell them that. Schumpert said from the time they started negotiating with the City of Lawton, the statement was made that the only thing that would not be negotiated is the pre-treatment process because it jeopardizes the entire City of Lawton. Schumpert said an executive session would be included next Tuesday in that regard. Shanklin said fining \$600 would not reduce that jeopardy. Schumpert said the fine is \$3,000 to date. Powell said it appeared from the letter he received that there was a discrepancy in their findings and the City's finding, and everyone should work together to see how that came about.

There was no further business to consider and the meeting adjourned at 10:50 p.m. upon motion, second and roll call.